

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 267 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

AADARSINH AMARSINH CHAUHAN SARPANCH

Versus

STATE OF GUJARAT

Appearance:

MR JAYANT PATEL for Petitioners
MR SN SHELAT, ADDL. AG with MR AD OZA,
GOVERNMENT PLEADER for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH

Date of Judgment: 20/10/2000

CAV JUDGMENT

This petition is filed by the Sarpanch of village Limb, Sarpach of village Chandrej and the residents of village Mathasuliya challenging the Government notification dated 31.12.1999 shifting these three villages from Talod taluka to Bayad taluka in Sabarkantha District.

2. In a separate judgment delivered today in Special Civil Application No. 10459 of 1999, this Court has already examined the legal contentions regarding the interpretation of the provisions of Section 7 of the Bombay Land Revenue Code, 1879 and Section 9 of the Gujarat Panchayats Act, 1993 and the contention about the application of the principle of audi alteram partem in such matters. For the reasons already recorded therein, this Court reiterates the view taken in the said decision that the village panchayat, members of the village panchayat or the residents of the village do not have any right to be heard before the State Government exercises its powers under the provisions of Section 7 of the Bombay Land Revenue Code for including a particular village in a particular taluka or to shift it from one taluka and to include it in another taluka.

3. Prior to recent reconstitution of the districts and talukas in October, 1997, the above named three villages were in Bayad taluka. Bayad taluka came to be bifurcated into Bayad and Talod talukas. Thereupon by notification dated 15.10.1997, the above named three villages came to be included in Talod taluka. By the impugned notification dated 31.12.1999, they have been shifted to Bayad taluka.

4. It is contended on behalf of the petitioners that Talod is at a distance of only about 17 kms from these villages whereas Bayad is at a distance of about 32 kms. from these villages. It is further contended that the people in the villages have their business associations and affiliations with Talod taluka headquarter and with the Agricultural Produce Market Committee at Talod. It is further contended that the Government has exercised its power mala fide with a view to increase the voters supporting the BJP in Talod taluka as the BJP got less votes from these three villages at the last elections and, therefore, the attempt is made to boost up the prospects of their party in Talod.

5. On behalf of the respondent-authorities, affidavit in reply dated 20.8.2000 and further affidavit dated 29.8.2000 are filed. It is pointed out by the respondents that the Gram Panchayats of all the three villages have passed resolutions to include their villages in Bayad taluka. Copies of the resolution dated 28.11.1997 passed by Mathasulia Gram Panchayat, resolution dated 10.5.1999 of Chandrej Gram Panchayat and the resolution dated 31.8.1998 of Limb Gram Panchayat

have been produced with the further affidavit in reply dated 29.8.2000.

6. In view of the contents of the aforesaid resolutions, it is obvious that the grievance made by the petitioners has no substance when the Gram Panchayats themselves have passed resolutions inviting their shifting from Talod taluka to Bayad taluka.

7. In view of the above discussion, the petition is dismissed. Rules is discharged. There shall be no order as to costs.

(M.S. Shah, J.)

sundar/-